

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEVON CHRISTOPHER WENGER,

Defendant.

Case No. [23-cr-00269-JSW-3](#)

**ORDER TO SEKI, NISHIMURA, AND
WATASE, PLC; WARNING TO
ATTORNEY NICOLE LOPES ABOUT
EFFECT OF IGNORING OSC;
WARNING REGARDING CONTEMPT**

Re: Dkt. No. 406

The Court is in receipt of the Declaration of Bill H. Seki re: Orders and Deadlines. (Dkt. No. 406.) In his declaration, Mr. Seki relays that Attorney Nicole Lopes does not intend to comply with the Court's orders requiring a joint status report as to the mistrial, (Dkt. No. 393), a showing of cause why the Court should maintain the mistrial order and related trial transcript under seal, (Dkt. No. 387), or a showing of cause as to her competence to represent Defendant Devon Wenger in the retrial, (Dkt. No. 404), because Ms. Lopes is on "protected medical leave." (Dkt. No. 406, ¶ 6.)

The Court does not recognize Ms. Lopes' "protected" leave. Ms. Lopes is counsel of record for Defendant Wenger unless and until the Court releases her from her duties. She is required to fully comply with Court orders.

If Ms. Lopes is unable to respond to the Court's orders due to her health, it is the responsibility of Seki, Nishimura, & Watase, PLC to comply with the Court's orders. Ms. Lopes is an associate at the firm and the firm is listed as counsel of record.

The Court understands, from the Government's filings, that Ms. Lopes has continued to meet and confer with the Government, including communicating a demand for speedy trial under

1 the Speedy Trial Act. (*See* Dkt. Nos. 402, 407.) These communications are the basis for the
2 hearings on Tuesday. The firm is responsible for Ms. Lopes' conduct and for providing effective
3 counsel to Defendant Wenger, including but not limited to ensuring an attorney is present and
4 prepared at Tuesday's hearings.

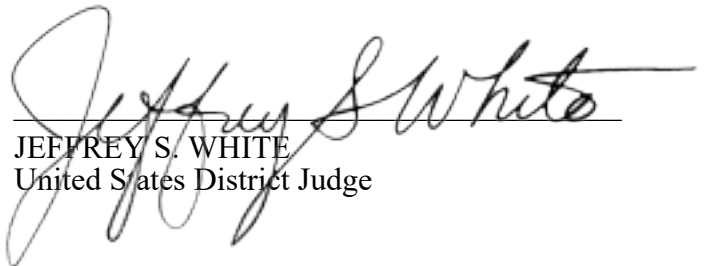
5 The firm must ensure compliance with the Court's orders at Docket Numbers 393 and 404.
6 It must ensure that an attorney appears at the hearing on Tuesday, March 25, 2025, at 1:00 p.m.
7 This attorney must be prepared to discuss issues relating to retrial, including exclusion of time
8 under the Speedy Trial Act, selecting a new trial date, and whether the Court should find Ms.
9 Lopes is incompetent to represent Defendant Wenger at the retrial.

10 The Order to Show Cause at Docket Number 387 is directed to Ms. Lopes personally, not
11 to the parties. The Court will interpret a failure to respond as Ms. Lopes' agreement that the
12 documents should be unsealed, and it will order unsealing forthwith.

13 **Failure to comply may be punishable by contempt. A declaration of unavailability is**
14 **not compliance. Ms. Lopes and Seki, Nishimura, and Watase, PLC have not been released**
15 **as counsel of record by the Court.**

16 **IT IS SO ORDERED.**

17 Dated: March 21, 2025

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19 JEFFREY S. WHITE
20 United States District Judge
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